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LAWS OF CALIFORNIA

RELATIVE TO

Production and Standard of Dairy Products

STATE DAIRY BUREAU

268 MARKET STREET
SAN FRANCISCO, CAL.



CALIFORNIA STATE PRINTING OFFICE
SACRAMENTO
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Prepared by
Legislative Counsel Bureau

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LAWS OF CALIFORNIA

RELATIVE TO

Production and Standard of Dairy Products.

The State Dairy Bureau was created by section 15 of the Act of 1897, which reads as follows:

SEC. 15. The governor shall on or before the first day of July, eighteen hundred and ninety-seven, appoint three resident citizens of this state, who shall have practical experience in the manufacture of dairy products, to constitute a state dairy bureau, and which shall succeed the one now in existence in every respect. Members of this bureau shall hold office for the period of four years from and after the first day of July, eighteen hundred and ninety-seven, and until their successors are appointed and qualified; *provided*, that the first members appointed under the provisions of this act shall at their first meeting so classify themselves by lot as that one shall go out of office at the expiration of two years, one at the expiration of three years, and the other at the expiration of four years.

Any vacancy shall be filled by appointment by the governor for the unexpired term.

The members of said bureau shall serve without compensation, and within twenty days after their appointment, shall take the oath of office as required by the constitution, and they shall thereupon meet and organize by electing a chairman and treasurer. Any one of them may be removed by the governor, for neglect or violation of duty.

They shall make a report in detail to the legislature not later than the first day of December next preceding the meetings thereof. [Approved March 4, 1897 (*Statutes* 1897, p. 65); expressly continued in force by *Statutes* 1911, p. 977.]

An act to prevent the manufacture or sale of dairy products from unhealthy animals, or that are produced under unsanitary conditions; to prevent deception or fraud in the production and sale of dairy products, and in the manufacture and sale of renovated butter and oleomargarine; to license the manufacture and sale of renovated butter, and oleomargarine; to regulate the business of producing, buying and selling dairy products, oleomargarine, renovated or imitation butter and cheese; to provide for the enforcement of its provisions and for the punishment of violations thereof, and appropriating money therefor and to repeal section 17 of an act approved March 4, 1897, entitled "An act to prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement, and to appropriate money therefor," and to repeal all acts and parts of acts inconsistent with this act.

[Approved April 21, 1911; amendments approved May 4, 1915; May 4, 1915; June 11, 1915; June 1, 1917. *Statutes* 1911, p. 959; 1915, pp. 332, 352, 1455; and 1917, p. 1654.]

9546

Sale of unclean milk, etc., prohibited.

SECTION 1. No person, firm or corporation, by themselves or their agents or employees, shall sell, expose for sale, or offer for sale, or shall exchange, present, or deliver to any creamery, cheese factory, milk condensing factory, or other buyer or consumer of milk or milk products, any unclean, unwholesome, stale, or impure milk, cream, butter or condensed or evaporated milk, or other article produced from such milk or cream, neither shall any person or persons, firm or corporation, by themselves or their agents or employees, sell, expose for sale, or offer for sale, or exchange, present or deliver to any consumer, creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any milk, cream, butter, cheese, condensed milk or other products manufactured therefrom, which has been produced in or by a dairy, or factory of dairy products, or that is or has been handled in any store or depot, that is in an unsanitary condition, or that is produced from cows affected by any disease, or from cows within five days after or fifteen days preceding parturition.

Cleansing and sterilizing bottles, etc.

SEC. 1a. Every person, firm or corporation, not a common carrier, who receives from a common carrier in cans, bottles, vessels, or other containers, any milk, cream and ice cream intended for human consumption, which has been transported over any railroad, or boat or freight line, or by other common carrier, or auto truck, which said cans, bottles, vessels, or other containers, are to be returned to the consignor or shipper, shall cause the said empty cans, bottles, vessels, or other containers, to be thoroughly cleansed and sterilized by boiling water or superheated steam before return shipment of the same; *provided, further*, that all empty cans, bottles, vessels, or other containers, delivered to the consumer by the retailer shall be thoroughly and immediately cleansed before returning the same to the dealer or distributor. [Added by *Statutes* 1917, p. 1657.]

Unsanitary dairies.

SEC. 2. A dairy shall be deemed unsanitary within the meaning of this act, among other causes that render milk, or products made therefrom, unclean, impure, and unhealthy, in the following cases:

(a) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(b) If the yards or enclosures are filthy or unsanitary or if any part of such yards or enclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

(c) If a suitable milk house or room is not provided and maintained, properly screened to exclude flies and insects, for the purpose of cooling, mixing, canning, and keeping the milk. Said milk house or room, shall not be located in or be a part of any residence, or dwelling house, or any barn or poultry house, and shall not be used for any other purpose whatsoever.

(d) If any milk or cream shall be cooled, stored, mixed, canned, or kept in any room or place which is occupied by any person or persons as a sleeping or living apartment, or occupied by horses, cows, hogs or other animals, or fowls of any kind, and if the milk or cream shall not be cooled to as low a temperature as practicable within one hour after it is drawn from the cows.

(e) If any urinal, privy vault, open cesspool, horse stable, pig pen, stagnant water, accumulation of manure or other filth shall be permitted within one hundred feet of any such milk house or room or within fifty feet of any cow stalls or stanchions or other place where milking is done.

(f) If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash is not made at least once in two years, or oftener if in the judgment of the agent of the state dairy bureau it is needed, or if in the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(h) If the pails, cans, bottles or other containers of milk, or its products, or the strainers, coolers or other utensils coming in contact with the milk or its products, are not sterilized by boiling water or superheated steam each and every time the same are used.

(i) If the person or wearing apparel of the dairyman, his employees, or other persons, who come in contact with milk and its products, are soiled or not washed from time to time with reasonable frequency. [As amended by *Statutes* 1917, p. 1655.]

Unsanitary creamery defined.

SEC. 3. A creamery or any factory of dairy products, or any store, depot or other place where milk is handled or kept for sale, shall be deemed unsanitary under the meaning of this act, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure, stale or of low grade or inferior quality, in the following cases:

(a) If milk or cream is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or if it is received in cans or other containers that have not been sterilized by means of boiling water or superheated steam after each delivery.

(b) If the utensils and apparatus that come in contact with milk or its products in the process of manufacture are not thoroughly washed and sterilized by means of boiling water or superheated steam, after each using.

(c) If the floor is so constructed as to permit the flowing or soaking of water, milk or other liquids underneath or among the interstices of such floor, where fermentation and decay may take place, or if such floor may not be readily kept free from dirt.

(d) If drains are not provided that will convey refuse milk, water and sewage away to a point at least fifty yards distant from such creamery or factory of dairy products, or if any cess-pool, privy vault, hog yard, slaughter house, manure or any decaying vegetables or animal matter, shall be within a distance that will permit foul odors to reach any such creamery or other factory of dairy products or store or depot where milk or its products are sold or handled.

(e) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building or buildings used in connection with any creamery, or factory of dairy products, any insects or other species of animal life are permitted, or if upon the floor, the sides or the walls, any milk or its products, or any other filth is allowed to accumulate, or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products, in any creamery, or factory of any dairy products, shall be unclean and not washed from time to time with reasonable frequency.

Liquid measure.

SEC. 4. No person, firm or corporation shall hereafter sell, offer for sale, or receive for the purpose of sale, any milk, skim milk or cream, except such sale, offer, or receipt, shall, as to quantity, be based upon the liquid gallon, containing two hundred and thirty-one cubic inches, or the liquid quart containing fifty-seven and seventy-five one hundredths cubic inches, or the proper and complete liquid subdivision thereof; *provided*, that nothing in this act shall be construed as prohibiting the buying or selling of milk or cream either by weight or on the basis of its butter fat contents; *and provided, further*, that in any hotel, restaurant, or other eating place, where milk is sold with meals, or where it is sold to be drunk immediately, it may be sold by the glass.

Pasteurized milk, butter, etc. Butter to be sold by pound.

SEC. 5. No person, firm or corporation shall sell, exchange, or offer or expose, or have in its possession for sale or exchange,

any milk, cream, skim milk, ice cream, butter, buttermilk, cheese or other milk products, as and for pasteurized milk, cream, skim milk, ice cream, butter, buttermilk, cheese or other milk product, as the case may be, nor use the word "pasteurize" or any of its derivatives in connection with the sale, designation, advertising, labeling or billing of any milk, cream, skim milk, ice cream, butter, buttermilk, cheese or other milk products, unless the same and all products of milk contained therein or used in the manufacture thereof consist exclusively of milk, skim milk or cream which has been treated by the process of pasteurization, as defined and regulated in subdivision fifteen, section twenty-nine, of this act. It shall be unlawful for any person, firm or corporation to sell, offer for sale, or to cause or permit to be sold or offered for sale, any butter in prints or packages or otherwise other than by or in terms of pounds and ounces, avoirdupois, or for a greater weight than the true net weight thereof. [As amended by *Statutes* 1915, p. 332.]

Registration of dairies.

SEC. 6. Every person, firm or corporation operating any dairy, where more than four cows are milked, and every creamery, cheese factory, receiving station, skimming station, ice cream or ice milk manufacturer, or milk condensary, shall on or before the first day of November of each year, cause to be registered with the secretary of the state dairy bureau a statement showing the full name and address of such person, firm or corporation so operating the same, and also the full name and address of the owner or owners of the business so being operated, in case the person operating the same is not the owner, together with a statement of the class of such business carried on by such person or corporation, and the number of cows then being milked, in case of a dairy.

Annual report.

SEC. 7. The secretary of the state dairy bureau shall provide blanks for reporting dairy statistics, and he shall annually, on or before the first day of October each year, cause to be mailed to each person, firm or corporation engaged in operating any dairy making butter or cheese from more than four cows, and to all dairies where more than four cows are milked, and to all creameries, cheese factories, ice cream or ice milk manufacturers, and milk condensaries, one or more of such blanks, and each such person, firm or corporation shall, on or before the first day of November following, make out and transmit to said secretary of the state dairy bureau a full and accurate report of the amount of butter, cheese or other dairy products,

manufactured or produced during the year ending September 30th, and the dairies shall report the number of cows milked during said year.

Correct designations on butter wrappers.

SEC. 8. In case any butter is sold, or offered for sale, in a package or wrapper purporting to designate the producer of such butter, such producer must be correctly designated. In case any butter is sold, or offered for sale, in a package or wrapper, or under a label purporting or calculating to designate the place of production, such package, wrapper, or label must correctly name the place where made; or if such package, wrapper or label bears the name of any county, city and county, city or town in this state or any other geographical designation, such package, wrapper, or label must also correctly name the place where made. No person, firm or corporation shall put up in package or wrapper, or otherwise prepare for shipment or sale, any butter under a label purporting to designate the producer, place of production, or bearing the name of any county, city and county, city or town of this state, or any other geographical designation, except in accordance with the provisions hereof; nor shall any person, firm or corporation sell or offer for sale any butter in a package, wrapper, or under a label purporting to designate the name of the producer or the place of production or bearing the name of any county, city and county, city or town of this state or geographical designation, except in accordance with the provisions hereof. [As amended by *Statutes* 1915, p. 352; in effect January 1, 1916.]

Oleomargarine defined. Imitation cheese.

SEC. 9. For the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef-fat, suet, lard, lard-oil, intestinal-fat, and offal fat made in imitation or semblance of butter, or when so made, calculated or intended to be sold as butter or for butter; and for the purposes of this act, every article, substance, or compound, other than that produced from pure milk, or cream from the same, made in the semblance of cheese, and designed to be used as a substitute for cheese made from pure milk or cream, is hereby declared to be imitation cheese; *provided*,

that the use of salt, rennet, and harmless coloring matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation; *and provided*, that nothing in this section shall prevent the use of pure skimmed milk in the manufacture of cheese. [As amended by *Statutes* 1915, p. 1455.]

Sale of imitation butter prohibited.

SEC. 10. No person, by himself or his agents or servants, shall render, manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell or to use or to serve to patrons, guests, boarders, or inmates in any hotel, eating-house, restaurant, public conveyance or boarding-house, or public or private hospital, asylum, or eleemosynary or penal institution, any article, product or compound made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced directly and at the time of manufacture from unadulterated milk or cream from the same, which article, product, or compound shall be colored in imitation of butter or cheese produced from unadulterated milk or cream, or be made to resemble yellow butter in color, by whatever means the coloring is accomplished; *provided*, that nothing in this section shall be construed to prohibit the manufacture or sale, under the regulations hereinafter provided, of substances or compounds, designed to be used as an imitation, or as a substitute for butter or cheese made from pure milk or cream from the same, in a separate and distinct form not resembling butter or cheese, and in such a manner as will advise the purchaser and consumer of its real character, free from coloration or ingredients that cause it to look like butter or cheese made from pure milk or cream, the product of the dairy.

Branding oleomargarine. Absence of markings.

SEC. 11. Each person, who, by himself or another, lawfully manufactures any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, shall mark the same by branding, stamping, or stenciling upon the top and sides of each tub, firkin, box, or other package in which such article or substance shall be kept, and in which it shall be removed from the place where it is produced or put up, in a clear and durable manner, in the English language, the words "oleomargarine," or "substitute for butter," or "substitute for cheese," as the case may be, in printed letters in plain roman type, each of which shall not be less than one inch in height by one-half inch in width, and in addition to the above shall prepare a statement, printed in plain roman type, of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of

the place where manufactured or put up, and also the names and actual percentages of the various ingredients used in the manufacture of such oleomargarine, imitation butter or imitation cheese; and shall place a copy of said statement within and upon the contents of each tub, firkin, box, or other package, and next to that portion of each tub, firkin, box, or other package, as is commonly and most conveniently opened, and shall label the top and sides of each tub, firkin, box, or other package by affixing thereto a copy of said statement, in such manner, however, as not to cover the whole or any part of said mark of "oleomargarine," "substitute for butter," or "substitute for cheese." The absence of the markings and labelings specified in section 11 hereof shall always be construed as a representation that the contents or substance in question is butter, or cheese, as the case may be.

Shipping oleomargarine.

SEC. 12. No person, by himself or another, shall knowingly ship, consign, or forward by any common carrier, whether public or private, any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, unless the same be marked and contain a copy of the statement, and be labeled as provided by section 11 of this act; and no carrier shall knowingly receive the same for the purpose of forwarding or transporting, unless it shall be manufactured, marked, and labeled as hereinbefore provided, and unless it is consigned and by the carrier receipted for by its true name; *provided*, that this act shall not apply to any goods in transit between foreign states across the State of California.

All oleomargarine packages to be marked.

SEC. 13. No person or his agent shall knowingly have in his possession or under his control any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, unless the tub, firkin, box, or other package containing the same, shall be clearly and durably marked and labeled as provided by section 11 of this act, and also contain a copy of the statement required by said section 11 of this act; and if the tub, firkin, box, or other package be opened, then a copy of the statement described in said section 11 of this act shall be kept with its face up, upon the exposed contents of said tub, firkin, box, or other package; *provided*, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves or family, and for no other purpose.

Conditions covering sale of oleomargarine.

SEC. 14. No person, by himself or another, shall sell, or offer for sale, or take orders for the future delivery of any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, under the name of butter, or under the pretense that the same is butter or cheese; and no person, by himself or another, shall sell any substance designed to be used as a substitute for butter or cheese, unless he shall inform the purchaser distinctly, at the time of the sale, of its true name and character, and that the same is a substitute for butter or cheese, as the case may be, and shall deliver to the purchaser, at the time of the sale, a separate and distinct copy of the statement described in section 11 of this act; and no person shall use in any way in connection or association with the sale, or exposure for sale, or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter or cheese, the words "butterine," "creamery," or "dairy," or the representation of a cow or any breed of dairy cattle, or any combination of such words and representations, or any other words or symbols, or combinations thereof, commonly used by the dairy industry in the sale of butter or cheese.

Hotel-keepers to notify patrons when serving oleomargarine.

SEC. 15. No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch-counter, or other place of public entertainment, and no person having charge thereof or employed thereat, and no person furnishing board, for others than members of his own family, and no employee where such board is furnished as the compensation or as a part of the compensation of any employee, shall place before any patron or employee, for use as food, any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, unless the same be accompanied by a copy of the statement described in section 11 of this act, and by a verbal notification to said patron that such substance is a substitute for butter or cheese.

Maintaining actions on contract.

SEC. 16. No action can be maintained on account of any sale or other contract made in violation of, or with intent to violate, this act, by or through any person, who was knowingly a party to such wrongful sale or other contract.

Every person having possession or control of any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, which is not marked as required by the provisions of this act shall be presumed to have known, during the

time of such possession or control, that the same was imitation butter, or imitation cheese, as the case may be.

Erasing labels.

SEC. 17. No person shall efface, erase, cancel, or remove any mark, statement, or label required by this act, with intent to mislead, deceive, or with intent to violate any of the provisions of this act.

Butter used in charitable institutions.

SEC. 18. No butter or cheese not made wholly from pure milk or cream, salt, and harmless coloring matter, shall be used in any of the charitable or penal institutions that receive assistance from the state.

Having possession of oleomargarine. Officer serving bench warrant to take sample.

SEC. 19. Whoever shall have possession or control of any imitation butter or imitation cheese or any oleomargarine, or any substance designed to be used as a substitute for butter or cheese, or any renovated butter, contrary to the provisions of this act, shall be construed to have possession of property with intent to use it as a means of committing a public offense, within the meaning of chapter three, of title twelve, of part two, of an act to establish a penal code; *provided*, that it shall be the duty of the officer who serves a bench warrant issued for imitation butter or imitation cheese, or oleomargarine, or any substance designed to be used as a substitute for butter or cheese, or any renovated butter, to deliver to the agent or inspector of the state dairy bureau, or to any person by such dairy bureau authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed, and forthwith to return to the person from whom it was taken the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese, or oleomargarine, or a substance designed to be used as a substitute for butter or cheese, or renovated butter, it shall be returned to and retained by the magistrate as and for the purpose contemplated by section fifteen hundred and thirty-six of an act to establish a penal code; but if any sample be found not to be imitation butter or imitation cheese, or oleomargarine, and not a substance designed to be used as a substitute for butter or cheese, or renovated butter, it shall be returned forthwith to the person from whom it was taken.

Each package of oleomargarine to be marked.

SEC. 20. No person, firm or corporation, by themselves or their agents or employees, shall sell, offer for sale, or expose for sale, or have in his, its, or their possession for sale, any oleomargarine or any renovated butter, unless the same shall have printed upon each and every package, roll, print, square, and upon any container of such renovated butter, or oleomargarine, the words "renovated butter," or the word "oleomargarine," as the case may be, in letters not less than one-half inch in height, and who shall not have secured from the state dairy bureau, now existing under the laws of this state, a license as provided hereinafter.

Renovated butter defined.

SEC. 21. The term renovated butter as used in this act is hereby defined to mean and include butter that has been reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product thereof.

License required of manufacturer, etc. Fees.

SEC. 22. No person, firm or corporation, shall engage in the business or occupation of manufacturing, selling, dealing in, or furnishing renovated butter, oleomargarine, or any substance designed to be used as a substitute for butter, without first having applied for and obtained a license so to do, as hereinafter provided. Any person, firm or corporation, desiring to engage in the business or occupation of manufacturing, selling, dealing in or furnishing to his, its or their patrons, oleomargarine, or any substance designed to be used as a substitute for butter, or imitation butter, or adulterated butter, or renovated butter, as in this act defined, shall first make application each year to the state dairy bureau for a license and upon payment of a license fee of the amount mentioned herein, to the state dairy bureau, said bureau shall issue to the applicant a license. All such licenses shall contain the following proviso: *provided*, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any oleomargarine, or similar substances designed to be used as a substitute for butter, which contain any coloring matter or which resemble yellow butter in appearance. All said licenses shall expire on June 30th of each year, and may be issued in periods of one year, or less than one year, upon payment of a proportionate part of the license fee. The fees for issuing said licenses are hereby fixed at the amounts below named, annually. The fee for issuing said license to manufacturers of any of said substances within this state shall be one hundred dollars, and if issued to wholesale dealers in, or importers or agents for

importers of any of said substances the fee shall be fifty dollars, and if issued to retail dealers in any of said substances the fee shall be five dollars, and if issued to the keeper of any hotel, restaurant, boarding-house or other place where meals are served and payment is received therefor, either immediately or by the day, week or month, the fee shall be two dollars. The term wholesale dealer as used in this section 22 hereof includes all persons, firms or corporations, who sell any of said substances in quantities of ten pounds or more at a time or in the same transaction. The term retail dealer includes all persons who sell only in quantities of less than ten pounds. All licenses, while in force, shall be kept conspicuously displayed in the place of business of the party or parties to whom they have been issued.

It shall be unlawful for any person, firm or corporation, to manufacture, buy, sell, deal in, or furnish to his, its or their patrons, or to have in possession, for any purpose whatsoever other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in case of a warehouse or cold storage company, any oleomargarine, or similar substance designed to be used as a substitute for butter, or any substance resembling butter, but not made wholly from pure milk or cream, or any imitation butter, or adulterated butter, or renovated butter, as in this act defined, without first having applied for and obtained from the state dairy bureau of the State of California, the license herein required.

Disposition of Fees.

SEC. 23. All license fees paid to the state dairy bureau under this act shall be paid by said bureau into the state treasury, and shall be added to the appropriation made for the same fiscal year for the state dairy bureau, and its expenditure shall be at the disposal of said bureau for its use.

Records of sales, etc., of oleomargarine. Records open to inspection. Failure to keep records a misdemeanor.

SEC. 24. Every person, firm or corporation, who is required by the provisions of section 22 hereof to obtain and hold a manufacturer's or a wholesaler's or importer's license shall keep a correct record in a form separate from all other business, in which every sale and purchase of renovated butter, imitation butter, oleomargarine, or any substitute for butter or substance designed to be used as a substitute for butter, or resembling butter, which substance is not made wholly from pure milk or cream, or any imitation cheese or imitation dairy products of any kind, shall be recorded at the time of the transaction, giving in detail the quantity sold or purchased,

the name and location of the buyer or seller, the date, and the place to which it was shipped or delivered, and by whom the order or sale was put up and delivered. Every warehouse, cold storage company, boat, railroad or other transportation company shall keep a correct record of all oleomargarine, imitation butter, renovated butter, substitute for butter, imitation cheese, or other imitation dairy products, which at any time may be in their possession, or which may be transported or stored by them, showing the owner, the quantity and kind of goods, the date when stored, and when removed, in case of warehouses and cold storage companies, and showing the character of goods billed, the quantity, the name and address of consignor and consignee, and the date of transportation, in case of boats and railroad companies.

All said records herein required to be kept shall, at all times during business hours, be open to the inspection of the agents and inspectors of the state dairy bureau, and of any officer of any city or county board of health, and of any peace officer of any city or any county of the state.

A failure to keep any of the records herein required to be kept or to permit the inspection of such records, by any inspector or agent of the state dairy bureau, or of any city or county board of health, or by any peace officer of any city or county, as herein required, is hereby declared to be a misdemeanor, and punishable as provided herein.

False tests and weights.

SEC. 25. It shall be unlawful for any hauler of milk, or cream, or any person, firm or corporation receiving or purchasing milk or cream by weight or test or both, or by measure or test or both, to fraudulently manipulate the weight, measure or test of milk or cream of any person or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler or other agent shall weigh or measure the milk or cream of each patron accurately and correctly and shall report such weights or measurements accurately and correctly to the creamery or factory. He shall thoroughly mix the milk or cream of each patron by pouring or stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from such milk or cream. When the weighing or sampling is done at the creamery, shipping station or factory, the same rule shall apply.

It shall be unlawful for any person, firm or corporation, by himself or as the agent, servant, employee or officer of any person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein, to under-read, over-read or otherwise fraudulently manipulate the Babcock test used for determining the per cent

of butter fat in milk or cream, or to falsify the records thereof or to read the test at any other temperature than the correct one, which is one hundred thirty degrees to one hundred forty degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream; *provided*, that in all tests for cream the cream shall be weighed into the test bottle. All testing of milk or cream purchased on the basis of the amount of butter fat contained therein, shall be done by a licensed tester who shall supervise and be responsible for the operation of the Babcock test of milk or cream. The license shall be issued to such person by the state dairy bureau whose duty it shall be to examine into the qualifications of all applicants for such license, and every such applicant shall satisfy said bureau of his qualifications and comply with the provisions herein before any license shall be issued to him.

The license shall be valid for the term of one year unless sooner revoked and shall be revoked by the state dairy bureau if, after due notice, the licensee has failed to comply with the laws, rules, and regulations under which the license was granted; *provided*, that the provisions of this section shall not apply to individuals, hotels, restaurants or boarding-houses buying milk or cream for private use.

Every creamery, shipping station, milk factory, cheese factory, ice cream factory, condensory, or any person, firm or corporation receiving or purchasing milk or cream on the basis of butter fat contained therein, shall be required to hold a license so to do. The license shall be issued to such creamery, shipping station, milk factory, condensory, ice cream factory, cheese factory, or person, firm or corporation by the state dairy bureau upon complying with all sanitary laws, rules and regulations of the State of California and upon complying with the provisions of this act and upon payment of a license fee as provided for in this section. This license shall be valid for the term of one year unless sooner revoked, and shall be revoked by the state dairy bureau if, after due notice, the licensee fails to comply with the laws, rules and regulations under which it was granted; *provided*, that the provisions of this section shall not apply to individuals, hotels, restaurants, and boarding houses buying milk or cream for private use.

The testers' license shall be issued upon compliance with the provisions of this act and upon payment by the applicant to the state dairy bureau of the sum of one dollar. The creamery license shall be issued upon compliance with the provisions of this act, and upon payment by the applicant to the state dairy bureau of one dollar. The money for license fees as provided for in this section shall be paid by the state dairy bureau into

the state treasury and shall become a part of the funds for the use of the state dairy bureau. [*Statutes* 1917, p. 1657.]

Babcock test.

SEC. 26. Every person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles, pipettes and accurate weights and scales as defined in this act, and all Babcock test bottles and pipettes shall have been inspected for accuracy by the state dairy bureau or its agent and shall be legibly and indelibly marked by the state dairy bureau or its agent with the letters "D. B."

It shall be unlawful for any firm or corporation or any of their agents to use any other than standard test bottles and pipettes which have been examined and marked as provided by this section, to determine the amount of fat in milk or cream received or purchased on the butter fat basis.

For all testing of glassware by the said state dairy bureau or its agent, a fee of five cents shall be paid by the owner of said glassware to the state dairy bureau for every piece of glassware so examined, and said fee shall be used by the state dairy bureau to defray the cost of testing such glassware. [*Statutes* 1917, p. 1659.]

Standards for Tests and Weights.

SEC. 27. The term "standard Babcock testing glassware" shall apply to glassware and weights complying to the following specifications: (a) Graduation for milk test bottles. The total per cent graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches), the graduation shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenths per cent graduation shall not be less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenths per cent graduations, projecting one millimeter to the left; the whole per cent graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per cent graduations. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters. The charge of the bottle shall be eighteen grams. The total height of the bottle shall be between one hundred fifty and one hundred sixty-five millimeters, five and seven-eighths and six and one-half inches.

(b. Two types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine gram long-neck bottle, and a fifty per cent eighteen gram long-neck bottle.

Fifty per cent, nine gram, long-neck bottle. The same specifications in every detail as specified for the fifty per cent nine gram, short neck bottle shall apply for the long-neck bottle, with the exception, however, that the total height of this bottle shall be between two hundred ten and two hundred thirty four millimeters (eight and one-fourth and eight and seven eighths inches, and that the total length of the graduation shall be not less than one hundred twenty millimeters.

The fifty per cent, eighteen gram, long-neck bottle. The same specifications in every detail as specified for the fifty per cent, nine gram, long-neck bottle, shall apply, with the exception that the charge of the bottle shall be eighteen grams, and the mark defining the weight of the charge placed at the top of the neck shall be eighteen.

The total length of the standard Babcock pipette shall be not more than three hundred thirty millimeters (thirteen and one fourth inches). Outside diameter of suction tube, six to eight millimeters. Length of suction tube, one hundred thirty millimeters. Outside diameter of delivery tube four and five-tenths to five and five-tenths millimeters. The length of delivery tube one hundred to one hundred twenty millimeters. Distance of graduation mark above bulb, thirty to sixty millimeters. Nozzle straight. Delivery seventeen and six-tenths cubic centimeters of water at twenty degrees centigrade in five to eight seconds.

The sensibility of all scales used for weighing cream samples into the test bottles shall be not more than thirty milligrams and the standard weights shall be nine grams and eighteen grams.

In all testing of milk or cream where the same is received or purchased upon the basis of the amount of butter fat contained therein, the Babcock tester shall be operated at the proper speed, which is as follows:

For tester with diameter of fourteen inches the speed shall be between eight hundred seventy-five and nine hundred twenty-five revolutions per minute.

For tester with diameter of sixteen inches, the speed shall be between eight hundred twenty-five and eight hundred seventy-five revolutions per minute.

For tester with diameter of eighteen inches, the speed shall be between seven hundred seventy-five and eight hundred twenty-five revolutions per minute.

For tester with diameter of twenty inches, the speed shall be between seven hundred twenty-five and seven hundred seventy-five revolutions per minute.

For tester with a diameter of twenty-four inches, the speed shall be between five hundred seventy-five and six hundred twenty-five revolutions per minute. [*Statutes* 1917, p. 1659.]

Unlawful to sell adulterated milk. "Product of milk." Labels to conform. Unlawful to use "milk," etc., when articles do not conform.

SEC. 28. It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell or offer for sale, or have on hand for sale, any milk, including condensed or evaporated milk, or any product of milk, that is adulterated within the meaning of this act. The words "product of milk" as used in this act, shall not apply to any product into which milk, or a product of milk, may enter as an ingredient or component of a food product that does not consist of milk, or milk products alone, such as pastry, and confectionery; *provided*, that this section shall not be construed to prevent the use of common salt (chloride of sodium) in dairy products. Any label, printed matter, or advertising or descriptive matter appearing upon, or in connection with any package, parcel or quantity of milk or milk products when being sold, offered for sale, or having on hand for sale, and having reference to the article being sold, offered for sale, or on hand for sale, shall conform to the provisions of this act, and if it fails to conform to the provisions of this act, such article shall be deemed adulterated within the meaning of this act. It shall be unlawful for any person under this act, when selling, or offering for sale, or having on hand for sale, milk or any product of milk to use the words "milk," "condensed milk," "sweetened condensed milk," "skim milk," "condensed skimmed milk," "evaporated cream," "cream," "butter," "cheese," "butter-milk," "ice cream," or "ice milk," either verbally, or printed or written on any label or printed matter, in connection with the sale, or offering for sale, or having on hand for sale, of milk or any product of milk, or upon any bill of fare used in any hotel, restaurant or other places where meals are served,

when the article shall not conform to the standards and provisions of section 29 of this act.

When milk, cream, butter, etc., is deemed adulterated. Pasteurization defined.

SEC. 29. Milk and the products of milk enumerated in this section shall be deemed adulterated within the meaning of this act if it or they shall not conform to the following definitions and standards:

(1) Milk is the fresh, clean, lacteal secretion all parts of which within forty-eight hours, if raw, and within sixty hours, if pasteurized, last prior to its delivery to the consumer or purchaser shall have been obtained from the udder by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and five days after calving, and contains not less than three per cent of milk fat, and not less than eight and five-tenths per cent of solids—not fat.

(2) Skim milk is milk from which a part or all of the cream has been removed and contains not less than eight and eight-tenths per cent of milk solids.

(3) Condensed milk or evaporated milk, is milk from which a considerable portion of water has been evaporated. The standard of purity of condensed milk and evaporated milk shall be that proclaimed and established by the secretary of the United States department of agriculture.

(4) Condensed skim milk is skim milk from which a considerable portion of water has been evaporated, and contains not less than eighteen per cent of milk solids.

(5) Cream is that portion of milk, rich in milk fat which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean and contains not less than eighteen per cent of milk fat.

(6) Evaporated cream, or clotted cream, is cream from which a considerable portion of water has been evaporated.

(7) Milk fat, or butter fat, is the fat of milk and has a Reichert-Meissel number not less than twenty-four and a specific gravity not less than .905 (40 degrees C.)

(8) Butter is the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and a harmless coloring, and contains not less than eighty per cent of milk fat.

(9) Cheese is the sound, solid, and ripened product made from milk or cream, by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning, and with or without salt and harmless coloring matter. All cheese marked "Full cream cheese," or

"Full milk cheese," must contain in the water-free substance, not less than fifty per cent of milk fat. All cheese marked "Half skim cheese," must contain in the water-free substance not less than twenty-five per cent of milk fat. All cheese not plainly marked or branded as to its quality must contain in the water-free substance not less than fifty per cent of milk fat.

(10) Buttermilk is that portion of the cream which remains after the separation and removal therefrom of the butter fat in the process of churning, without the addition of water.

(11) Ice cream is the frozen product, made from pure sweet milk or condensed milk or cream and sugar with or without a harmless flavoring or coloring, and contains not less than ten per cent of milk fat, and not more than six-tenths of one per cent of pure and harmless vegetable gum or gelatin.

(12) Fruit ice cream is the frozen product made from pure, sweet cream, sugar, and sound, clean, mature fruits, and contains not less than eight per cent of milk fat, and not more than six-tenths of one per cent of pure and harmless vegetable gum or gelatin.

(13) Nut ice cream is the frozen product made from pure, sweet cream, sugar, and sound, nonrancid nuts, and contains not less than eight per cent of milk fat, and not more than six-tenths of one per cent of pure and harmless vegetable gum or gelatin.

(14) Ice milk is the frozen product, containing less fat than ice cream, and made from pure, sweet milk and sugar, with or without a harmless flavoring or coloring, and contains not less than two and four-tenths per cent of milk fat, and not more than six-tenths of one per cent of pure and harmless vegetable gum or gelatin.

(15) The process of pasteurization, as applied to milk, skim milk, cream and milk products, is hereby defined to be a process for the elimination therefrom of organisms harmful to human beings, which process shall consist of uniformly heating such milk, skim milk or cream, as the case may be, to a temperature of not less than one hundred forty degrees Fahrenheit and of holding the same at the said temperature for a period of not less than twenty-five minutes, and immediately thereafter of cooling the same to a temperature of not above fifty degrees Fahrenheit; *provided*, that when cream is pasteurized to be used and is used in the manufacture of butter, or when milk is pasteurized to be used and is used in the manufacture of cheese, and where the process of ripening or starting in each case is to be commenced immediately, then it shall not be required that such cream or milk be cooled to a lower degree than is necessary for such ripening

or starting. All pasteurized cream or milk used in the manufacture of pasteurized butter and cheese, respectively, shall be pasteurized at and in the plant where such butter or cheese, as the case may be, is manufactured therefrom. Repasteurization of any milk is hereby expressly forbidden.

Also all apparatus used for the pasteurization of milk, skim milk or cream shall be kept in strictly clean and sanitary condition and shall be equipped with a recording thermometer device which will accurately record the temperature to which, and the length of time for which the pasteurized product has been heated. All recording thermometer devices used in the pasteurization of any such milk, skim milk or cream must be approved by and at all times subject to the approval of the state dairy bureau, the state board of health, and of all other state, county and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health; and all persons, firms or corporations using pasteurizing apparatus within the State of California shall preserve and keep on file, for a period of not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of the state dairy bureau, the state board of health, and of all other state, county and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health. [As amended by *Statutes* 1915, p. 333.]

Unlawful to sell skimmed milk not properly labeled.

SEC. 30. It shall be unlawful for any person, firm or corporation to sell, exchange or deliver, or to offer for sale, exchange or delivery, or to cause or permit to be sold, exchanged or delivered, or to be offered for sale, exchange or delivery, or to have in possession for sale, exchange or delivery, any milk from which any part of the cream shall have been removed, or any skimmed milk, unless the same be offered for sale and sold as skimmed milk, or unless there shall be attached to the outside of every vessel, can or package from or in which such skimmed milk is sold or held for exchange or delivery, a tag upon which shall be printed in black letters at least one inch in height the word "skim" or the words "skimmed milk."

Milk wagons, etc., to bear name of owner.

SEC. 31. All wagons, vehicles, or carts from which market milk, cream, butter, ice cream, buttermilk, or ice milk are sold, marketed, delivered, or peddled, shall have the name and address of the owner plainly painted thereon, in letters at

least three inches high, and one and a half inches wide, on both sides of such vehicle.

"Ice milk" to be properly labeled.

SEC. 32. It shall be unlawful for any person, firm or corporation to manufacture for sale, sell, or furnish with meals or drinks which are sold, any frozen edibles, made principally of skimmed milk, or principally of milk, unless the same shall conform to the definitions and standards herein fixed in section 29 for "ice milk," or "ice cream."

Unlawful to use borax, etc., to prevent souring. Adding coloring, etc.

SEC. 33. It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell, or to offer for sale, or to have on hand for sale, any milk, or product of milk, to which has been added, or that may contain, any compound of boron, salicylic acid, formaldehyde, or other chemical or substance for the purpose of preventing or delaying fermentation or souring. It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell, or to offer for sale, or to have on hand for sale, any milk, cream or condensed milk to which any coloring matter has been added by any person, or to which any gelatin or other substance has been added by any person to increase the consistency of such milk, cream or condensed milk, so as to make such milk, cream or condensed milk appear richer or of better quality; *provided*, that this section shall not be construed to prohibit the use of harmless coloring matter and common salt (chloride of sodium) in butter and cheese.

Unlawful to sell ice cream not conforming to standard. Marking ice milk receptacles. Marking ice milk wagon. Sellers to post ice milk signs.

SEC. 34. It shall be unlawful for any person, firm or corporation, manufacturing any frozen goods, which do not conform to the standards and provisions of this act for ice cream, to sell, or offer to sell, or represent the same as ice cream, or under the name of ice cream; and all frozen goods which do not conform to the standards and requirements of this act for "ice cream," but which do conform to the standards and requirements for "ice milk" herein, for the purpose of this act, shall be known as "ice milk," and shall be sold and designated as "ice milk," and not otherwise, and shall be billed as "ice milk," and every person, firm or corporation selling, furnishing or delivering to any person any such "ice milk" shall distinctly inform the purchaser at the time in each and every instance that the said goods are "ice milk." The absence of

such declaration shall always be construed as a representation on the part of the vendor that the goods are ice cream.

Every tub, receptacle or packer in which there shall be kept, sold, or delivered, at any time, any "ice milk," as herein defined, shall have conspicuously and securely attached thereto a durable tag, giving the name and address of the manufacturer or vendor of the same, and containing the words "ice milk" in letters at least one inch high and one-half inch wide, and containing no other reference to the name or character of the goods therein contained. The absence of such tag or label shall always be construed as a representation on the part of the maker or vendor that said goods are ice cream.

Every wagon, vehicle or cart, in or from which any "ice milk" shall be sold, furnished, delivered or peddled, shall have plainly and durably painted on both sides thereof, the name and address of the owner, in letters at least three inches high and one and a half inches wide, and also the words "ice milk" on each side thereof, in letters at least four inches high, and two inches wide, and there shall be no other reference to the name or character of the goods being sold or delivered. The absence of such words and letters shall always be construed as a representation on the part of the owner or vendor that said goods are ice cream.

Every person, firm or corporation, who sells, keeps for sale, delivers, or furnishes in connection with meals, or in connection with drinks, or otherwise, any ice milk, within the meaning of this act, to be used or eaten on the premises where sold, shall keep at all times posted or hung in at least two conspicuous places within the premises, and in plain view of the public, durable signs having printed or painted thereon the words "we sell ice milk," or "we serve ice milk," in letters at least four inches high and two inches wide. The absence of such signs, words and letters, as herein required shall always be construed as a representation on the part of the owner, or person selling or serving the goods, that they are ice cream.

It shall be unlawful for any person, firm or corporation to manufacture, sell, deliver, furnish, serve, or keep on hand any ice milk, within the meaning of this act, unless the same is done in compliance with all the requirements hereof.

Branding cheese. Dairy bureau to furnish brands. Grades of cheese defined. Unlawful to sell California cheese not branded.

Sec. 35. Every person, firm or corporation, who shall manufacture cheese in the State of California, shall at the place of manufacture, brand distinctly and durably on each and every cheese manufactured, and upon the package or box, when shipped, the grade of cheese manufactured, as follows: "full-cream cheese," or "half-skim cheese," or "skim cheese."

All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in this section. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the State of California other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

The different grades of cheese are hereby defined as follows: First: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or otherwise, and having not less than fifty per cent of butter fat in its water-free substance, which shall be conspicuously branded as "full-cream cheese." Second: Such cheese only as shall have been made from pure milk, and having not less than twenty-five per cent of butter fat in its water-free substance, which shall be conspicuously branded as "half-skim cheese." Third: Such cheese only as shall have been made from pure skim milk, which shall be conspicuously branded as "skim cheese."

No person or persons, firm, association or corporation shall sell or offer for sale in this state any cheese which is not branded either "full-cream cheese," "half-skim cheese," or "skim cheese," in accordance with its butter fat content. [As amended by *Statutes* 1917, p. 1656.]

"Persons" defined. Act of agent deemed act of corporation.

SEC. 36. The word "persons" as used in this act shall be construed to import both the singular and plural, as the case demands, and shall include individuals, corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any employee, officer, agent or other person, acting for or employed by any individual, corporation, company, society or association, within the scope of his employment or office, shall in every case also be deemed to be the act, omission or failure of such individual, corporation, company, society or association, as well as that of the person. The provisions of this act shall be construed to apply to hotel keepers, restaurant keepers and boarding-house keepers or any person who shall serve meals and accept money therefor.

Agent of dairy bureau may enter premises. Unlawful to interfere with inspectors.

SEC. 37. Every agent and inspector of the state dairy bureau, and every inspector of any city, county or state board

of health, is hereby authorized to enter upon and inspect any dairy, dairy premises, creamery, cheese factory, ice cream factory, or other place where dairy products of any kind are being produced, sold, delivered or used, or where they suspect that oleomargarine, or other substances designed to be used as a substitute for butter, or renovated butter, or imitation butter, or imitation cheese are being manufactured, sold, kept, delivered, transported or stored in violation of any of the provisions of this act.

It shall be unlawful for any person, firm or corporation to prevent or interfere with the duly authorized inspectors or agents of the state dairy bureau, or any city, county or state board of health, or the inspectors thereof, from entering or inspecting any place or premises where milk or products of milk or where oleomargarine, or imitation butter or cheese, or renovated butter, or any substance designed to be used as a substitute for butter, are produced, manufactured, prepared, sold, kept for sale, furnished or served, or to prevent or interfere with such inspectors or agents in the event they deem it advisable to secure samples of milk or milk products, or oleomargarine, or imitation butter or cheese, or renovated butter, or any substance designed to be used as a substitute for butter, at or from any such place or person, for the purpose of ascertaining whether this act is being violated, or to interfere with or prevent any such inspector or agent from examining any record or books required by the provisions of this act to be open to the inspection of the state dairy bureau, or its agents.

Failure to conform to act a misdemeanor.

SEC. 38. It shall be unlawful for any person, firm or corporation to fail, neglect or refuse to do any of the things required to be done by the provisions of this act; and it shall be unlawful for any person, firm or corporation to do any of the things prohibited by the provisions of this act; and in every case the failure, neglect or refusal to do anything required by this act, and the doing of anything prohibited by this act, is hereby declared to be a misdemeanor, and shall be punished as herein provided.

Penalty for violating sections 9 to 24.

SEC. 39. Whoever shall violate any of the provisions of sections 9 to 24, both inclusive, of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense, by a fine of not less than fifty dollars, nor more than one hundred and fifty dollars; or by imprisonment in the county jail for not exceeding thirty days; and for each subsequent offense, by a fine of not less than one hundred and fifty dollars nor more than three hundred

dollars, or by imprisonment in the county jail for not less than thirty days, nor more than six months, or by both such fine and imprisonment, at the discretion of the court.

Penalty for violating sections 25 to 35, and 37.

SEC. 40. Whoever shall violate any of the provisions of sections 25 to 35, both inclusive, or of section 37 of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

Penalty for violating other sections.

SEC. 41. Whoever shall violate any of the provisions of this act other than sections 9 to 35, both inclusive, and section 37 (the punishment for which is provided in sections 39 and 40 hereof) shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than one hundred days, or by both such fine and imprisonment.

Disposition of fines.

SEC. 42. One-half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one-half shall be paid to the state treasurer and shall become part of the general fund. [As amended by *Statutes* 1917, p. 1657.]

Dairy bureau to enforce act. Statistics of dairy industry. Report of contagious diseases among cattle. Officers of dairy bureau. Inspection.

SEC. 43. It shall be the duty of the state dairy bureau, now existing under the laws of this state, to enforce the provisions of this act; *provided*, that nothing in this act shall be construed to prevent any city or county board of health or other city or county official from enforcing the provisions of this act; *and provided, further*, that no conviction shall be had where a conviction is sought upon any alleged sample of milk, or product of milk, unless such sample has been taken in duplicate, sealed and marked for identification and one of such samples left with the person accused.

The state dairy bureau is authorized under this act to gather and compile statistics relative to the dairy industry, and to disseminate the same and other information useful to, and to

the general good and development of the dairy industry of the state, and to do such other things as will tend to promote the dairy industry of the state.

Whenever any agent or inspector of the state dairy bureau shall discover the existence of any contagious or infectious disease among dairy cattle, or have reason to believe that such disease may exist, the same shall be immediately reported to the state veterinarian.

The state dairy bureau shall have power to employ an agent or secretary at a salary of twenty-four hundred dollars a year, and such inspectors, assistants and chemists as from time to time it may deem necessary for the proper enforcement of the provisions of this act, and to fix the compensation of such inspectors at not to exceed five dollars per day, exclusive of their necessary and actual expenses, such expenses to be itemized and rendered under oath, or one hundred and twenty-five dollars per month exclusive of their necessary and actual expenses. Such agents shall have had experience in the manufacture of dairy products and the handling of dairy cattle.

The state dairy bureau, through its agent and secretary, and assistant agents, shall inspect the dairies, dairy cattle, creameries and other factories of dairy products, markets and other places where dairy products are prepared or handled, and keep a careful record of such inspection and report the same to the state dairy bureau and upon evidence obtained that any of the provisions of this act are being violated, the state dairy bureau, through its agent and secretary, or its inspectors, shall duly enter complaint against the party or parties, responsible for such violations and cause the same to be prosecuted, except in cases where any dairy, creamery or other factory of milk products, or store or depot where milk and its products are handled and sold, is found to be in an unsanitary condition, in which case the agent and secretary, or the inspector, for the district in which the violation occurred, shall serve upon the owner, or owners, or person in charge of the dairy, creamery or other factory of milk products so found to be in an unsanitary condition, a written notice specifying in detail the changes required to be made to place such dairy, creamery, or other factory of milk products or store or depot in a sanitary condition as defined in this act. Should such changes not have been made at the expiration of thirty days after the date when the notice was served, the state dairy bureau, through its agent and secretary, or its inspectors, shall enter complaint against the person or persons responsible for such unsanitary conditions and cause them to be prosecuted for violating this act.

Duty of district attorney to bring action.

SEC. 44. It shall be the duty of the district attorney of each and every county of this state, upon application of the state dairy bureau, or its agent and secretary, or any of its inspectors or assistant agents, to attend to the prosecution, in the name of the people, of any action brought for the violation of any of the provisions of this act within his county.

Act of 1897 continued.

SEC. 45. The provisions of section 15 of the act approved March 4, 1897, entitled "An act to prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement, and to appropriate money therefor," are hereby expressly continued in force; and the present state dairy bureau shall continue in existence in all respects as now constituted under existing laws; and the members thereof shall continue to be chosen and appointed in all respects as now provided under existing laws; the intention being that the existing laws, under which said bureau is constituted and now exists and by which its powers are conferred and its duties are prescribed, shall in no way be impaired or affected by this act.

Repeal.

SEC. 46. Section 17 of an act entitled "An act to prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement, and to appropriate money therefor," approved March 4, 1897, is hereby repealed.

SEC. 47. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

An act to establish a standard for evaporated milk and condensed milk.

[Approved April 24, 1911. *Statutes* 1911, p. 1101.]

Standard of purity.

SECTION 1. The standard of purity of condensed milk and evaporated milk shall be that proclaimed and established by the secretary of the United States Department of Agriculture.

SEC. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

[See subdivision (3) of section 29 of the act approved April 21, 1911.]

An act to regulate the sale of butter that has been shipped or imported into the State of California from any point or place outside of the United States, requiring the marking thereof by all persons selling or offering same for sale, and fixing penalties for the violation of the same or of any of the provisions thereof.

[Approved May 19, 1915. *Statutes* 1915, p. 689.]

Definition.

SECTION 1. For the purposes of this act the words "person, firm, company, or corporation," shall include wholesalers, retailers, jobbers, and every place where butter that has been shipped or imported into the State of California from any point or place outside of the United States is sold or offered for sale.

Butter from outside United States to be marked "imported."

SEC. 2. Every person, firm, company, or corporation who sells, offers for sale, or has in his, or their possession for sale, or consigns, ships or presents to any dealer, commission merchant, consumer, or other person any butter that has been shipped or imported into the State of California from any point or place outside of the United States shall, before doing so, cause to be stamped, marked or printed upon the wrapper, or other container thereof in black-face letters not less than one-eighth of an inch in height the word "imported."

Sign indicating importation.

SEC. 3. Every person, firm, company, or corporation selling or offering for sale any butter that has been shipped or imported into the State of California from any point or place outside of the United States, shall display in a conspicuous place in his or their public salesroom a sign, which shall be not less than one foot in height and two feet in length, bearing the words "imported butter sold here" in black-face letters not less than three inches in height and one-half inch in width upon a white ground.

Penalty for noncompliance.

SEC. 4. Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment in the discretion of the court.

An act to prevent the sale of impure and unwholesome milk, butter, ice cream and other milk products; to declare ice cream a milk product; to grade milk; to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to repeal an act entitled "An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor," approved June 15, 1915.

[Approved May 22, 1917. *Statutes* 1917, p. 803.]

Pasteurized milk. Tuberculin test.

SECTION 1. It shall be unlawful for any person, firm or corporation, except in bulk to the wholesale trade, to sell or exchange or offer or expose for sale or exchange for human consumption any milk from cows that have not passed the tuberculin test, until it has been pasteurized by the holding process at a temperature not less than one hundred forty degrees Fahrenheit for twenty-five minutes; *provided*, that milk for drinking purposes shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit; *provided, further*, that cream that is to be manufactured into butter may be pasteurized by heating it to a higher degree than milk and, when the same is uniformly heated to and held at a higher degree of temperature than one hundred fifty-one degrees Fahrenheit, the time for holding may be decreased from twenty-five minutes by one minute for each degree of temperature over one hundred fifty-one degrees Fahrenheit. It shall further be unlawful for any person, firm or corporation to sell or exchange or offer or expose for sale or exchange for human consumption any butter, ice cream or other milk products except cheese and butter as hereinafter provided, into the composition of which any milk enters other than that permitted in this section of this act, to be sold at retail for human consumption; *provided*, that nothing in this act shall be construed to prohibit the use or sale of butter that is not pasteurized or butter that is not the product of nonreacting tuberculin-tested cows; *provided*, that said butter be used by manufacturers of foodstuffs only and in the manufacture of such foodstuffs said butter shall be subjected to a minimum temperature of two hundred twenty-five degrees Fahrenheit; *and provided, further*, that it shall be unlawful to use any such butter except in the manufacture of food subjected to said temperature. Butter offered for sale for human consumption shall be marked: "From nonreacting tuberculin-tested cows,"

or "Pasteurized," as the case may be. Butter, which, by the provisions of this act, is permitted to be used for cooking and baking purposes only shall be marked "For cooking and baking only." Ice cream is hereby declared to be a milk product. For the purpose of this act milk shall be construed to include cream.

Grades of milk.

SEC. 2. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, in any city, county, or city and county, in which a milk inspection service, approved by the state dairy bureau, has been established, any milk otherwise than as hereinafter provided in this act, and for the purpose of this act, the term "inspecting department" shall be construed to mean the health department of a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau, and such inspecting department shall include at least one regularly licensed physician. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange any milk as and for, or under the designation, label or other representation of "guaranteed," "grade A," or "grade B" milk, except within a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau; *provided*, that a person, firm or corporation, which is authorized to sell milk within the jurisdiction of an inspecting department may sell milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any inspecting department, if local ordinances are not thereby violated, and also in territory within the jurisdiction of any other inspecting department; *provided*, the consent of said other inspecting department has been previously obtained.

Impure and unwholesome milk.

SEC. 3. All milk sold or exchanged or offered or exposed for sale or exchange except in bulk to the wholesale trade in any county or group of counties, city or group of cities, or city and county, in which a milk inspection service, approved by the state dairy bureau has been established, except certified milk, guaranteed milk, grade A milk and grade B milk, is hereby declared to be impure and unwholesome and must not be sold for human consumption.

Grade of milk.

SEC. 4. Where an inspection service is maintained as provided in section two of this act, milk shall be graded as follows: certified milk, guaranteed milk, grade A milk, grade B milk and milk not suitable for human consumption; *provided*, that milk sold or exchanged or offered or exposed for sale or exchange as and for, or under the designation, label or other representation of "guaranteed," "grade A" or "grade B," milk shall have the grade and whether raw or pasteurized marked on the container or cap of the container in capital letters not less than one-eighth inch long and one-sixteenth inch wide; *and provided, further*, that milk not suitable for human consumption shall be plainly so marked.

Unlawful to sell as guaranteed without approval of inspecting department.

SEC. 5. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as or for guaranteed milk, any milk, raw or pasteurized the quality of which is guaranteed by the dealer, without approval in writing of the inspecting department, which milk must be of a higher standard than that required for grade A raw milk.

Milk to conform to rules. Minimum requirements of Grade A milk. Condition of delivery.

SEC. 6. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade A milk, any milk that does not conform to the rules and regulations and the methods and standards for production and distribution of grade A milk adopted by the inspecting department.

Grade A milk shall conform to the following requirements as a minimum: if raw, it shall consist of the clean raw milk from healthy cows as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department, and by the tuberculin test by a qualified veterinarian under the supervision of the state veterinarian, and from dairies that score not less than seventy per cent on the score card hereinafter set forth; *provided, however*, that dairies having not more than two milking cows, and, which are found by any such inspecting department to comply fully with the remaining provisions of this act are hereby exempted from such scoring requirements and from the use of the labels prescribed in section four hereof. The tuberculin test must be repeated annually if no reacting animals are found in the herd. If reacting animals are found they must be removed from the herd, and the tuberculin test repeated in six months. All cows are to be fed,

watered, housed and milked under conditions approved by the inspecting department. All persons who come in contact with the milk must exercise scrupulous cleanliness and must not harbor the germs of typhoid fever, tuberculosis, diphtheria or other infectious diseases liable to be conveyed by milk. Absence of such infections shall be determined by cultures and physical examination, to the satisfaction of the inspecting department.

This milk is to be delivered in sterile containers and is to be kept at a temperature established by the inspecting department until it reaches the ultimate consumer, when it must contain less than one hundred thousand bacteria per cubic centimeter. If pasteurized it shall come from cows free from disease as determined by physical examination at least once in six months, by a qualified veterinarian under the supervision of the inspecting department. It shall contain less than two hundred thousand bacteria per cubic centimeter before pasteurization and less than fifteen thousand bacteria per cubic centimeter at the time of delivery to the ultimate consumer. Dairies from which this milk is derived must score at least sixty on the score card hereinafter set forth.

Minimum requirements of grade B milk. Pasteurization.

SEC. 7. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade B milk, any milk that does not conform to the following requirements as a minimum: it must be obtained from cows in no way unfit for the production of milk or use by man, as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department. Before pasteurization such milk shall contain less than one million bacteria per cubic centimeter. After pasteurization it shall contain less than fifty thousand bacteria per cubic centimeter.

Milk for pasteurization must be kept at a temperature established by the inspecting department up to the time of delivery to the pasteurization plant and rapidly cooled after pasteurization to a temperature of fifty degrees Fahrenheit or below and so maintained to the time of delivery of the same. Pasteurization shall be by the holding method at a temperature not less than one hundred forty degrees Fahrenheit; *provided*, that milk for drinking purposes shall not be heated above one hundred forty-five degrees Fahrenheit.

Such pasteurizing plant shall be equipped with a self-registering device for record of the time and temperature of pasteurization. Such records shall be kept for two months and be available for inspection by any health department, the state veterinarian or any of his agents, or the state dairy bureau. Pasteurized milk shall be marked with the day of the

week of pasteurization and must be delivered to the consumer within forty-eight hours thereafter. If milk is repasteurized, it must not be sold except as not suitable for human consumption; *provided, however*, if graded, cream of any grade shall conform to all the standards set for milk of the same grade, except that the maximum bacterial count for cream shall be not more than two times as great as that of the corresponding grade of milk.

Condition of sale of milk not suitable for human consumption.

SEC. 8. Milk not suitable for human consumption may be sold for industrial purposes, provided it be heated to a higher temperature than necessary for pasteurization, and delivered in a distinctive container, plainly marked with the words "Not suitable for human consumption," in letters not less than one-quarter inch in length and one-twelfth inch stroke.

Counties authorized to maintain inspection service.

SEC. 9. Counties, or groups of counties, cities or groups of cities, or cities and counties, are hereby authorized to maintain a milk inspection service and laboratory conformable to requirements as set forth by the state dairy bureau, and to establish pasteurizing plants.

Penalty.

SEC. 10. Any person who shall violate any provision of this act or the rules made in accordance with section eleven of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment. One-half of all such fines shall be paid into the state treasury and placed to the credit of the general fund.

Duty of dairy bureau to enforce provisions of act.

SEC. 11. It shall be the duty of the state dairy bureau, with the assistance of the pure food and drugs laboratory, to enforce all the provisions of this act except the tuberculin testing of cows and the marking of reactors; and said bureau, with the approval and assistance of the pure food and drugs laboratory, is hereby empowered to make such rules and regulations as may be necessary and advisable for such enforcement.

Duty of state veterinarian to enforce tuberculin tests.

SEC. 12. It shall be the duty of the state veterinarian, as soon as practicable, either directly or through local inspecting departments, to enforce the provisions of this act as to the

tuberculin testing of cows and the exclusion of reacting animals from the herds, and to mark indelibly by tattooing the ear with the capital letter "T" one inch long any cattle which have been tested with tuberculin under the provisions of this act and found to react to the test. For such purpose he may appoint such veterinarians as may be necessary.

Request for tuberculin test by persons desiring to sell milk.

SEC. 13. If any dairyman not operating under an inspecting department desires to sell milk, he may file with the state veterinarian a written request that his cows be tuberculin tested. After the filing of such request, said dairyman shall not be liable under the provisions of this act until such time as the state veterinarian shall be able to make the required test. The provision of this section shall apply also to any dairyman, operating under an inspecting department, if such inspecting department approves.

Score card used by dairy bureau.

SEC. 14. The following score card shall be used in scoring dairies under the provisions of this act:

DAIRY FARM SCORE CARD OF THE UNITED STATES BUREAU OF ANIMAL INDUSTRY.
 [As approved by the bureau for use under California conditions.]
DAIRY FARM SCORE CARD.

Equipment	Score		Methods	Score	
	Per- fect	Allowed		Per- fect	Allowed
COWS.			COWS.		
Health.....	6		Clean.....	8	
Apparently in good health..... 1			(Free from visible dirt, 6.)		
If tested with tuberculin			STABLES.		
within a year and no tu-			Cleanliness of stables.....	6	
berculosis is found, or if			Floor..... 2		
tested within six months			Walls..... 1		
and all reacting animals			Ceiling and ledges..... 1		
removed..... 5			Mangers and partitions..... 1		
If tested within a year and			Windows..... 1		
reacting animals are found			Stable air at milking time.....	5	
and removed..... 3			Freedom from dust..... 3		
Food (clean and wholesome).....	1		Freedom from odors..... 2		
Water (clean and fresh).....	1		Cleanliness of bedding.....	1	
STABLES.			Barnyard.....	2	
Location of stable.....	2		Clean..... 1		
Well drained..... 1			Well drained..... 1		
Free from contaminating sur-			Removal of manure daily to 50		
roundings..... 1			feet from stable.....	2	
Construction of stable.....	4		MILK ROOM OR MILK HOUSE.		
Tight, sound floor, and			Cleanliness of milk room.....	3	
proper gutter..... 2					
Smooth, tight walls and cell-					
ing..... 1			UTENSILS AND MILKING.		
Proper stall, tie, and manger			Care and cleanliness of utensils.....	8	
Provisions for light: Four square			Thoroughly washed..... 2		
feet of glass per cow.....	4		Sterilized in steam for 15		
(Three square feet of glass or			minutes..... 3		
four square feet of opening,			(Placed over steam jet, or		
3; two square feet of glass or			scalded with boiling water, 2.)		
three square feet of opening,			Protected from contamina-		
2; one square foot of glass, 1.			tion..... 3		
Deduct for uneven distribu-			Cleanliness of milking.....	9	
tion.)			Clean, dry hands..... 3		
Bedding, or clean pasture for bed	1		Udders washed and wiped..... 6		
Ventilation.....	7		(Udders cleaned with moist		
Ventilators in roof..... 2			cloth, 4; cleaned with dry		
Windows hinged at bottom. 2			cloth or brush at least 15		
(Sliding windows, 1.5; other			minutes before milking, 1.)		
openings, 1.)			HANDLING THE MILK.		
Cubic feet of space per cow,			Cleanliness of attendants in milk		
500 feet..... 3			room.....	2	
(Less than 500 feet, 2; less than			Milk removed immediately from		
400 feet, 1; less than 300			stable without pouring from		
feet, 0.)			pail.....	2	
UTENSILS.			Cooled immediately after milking		
Construction and condition of			each cow.....	2	
utensils..... 1			Cooled below 50° F.....	5	
Water for cleaning.....	1		(51° to 55°, 4; 56° to 60°, 2.)		
(Clean, convenient and abun-			Stored below 50° F.....	3	
dant.)			(51° to 55°, 2; 56° to 60°, 1.)		
Small-top milking pail.....	5		Transportation below 50° F.....	2	
Milk cooler.....	1		(51° to 55°, 1.5; 56° to 60°, 1.)		
Clean milking suits.....	1		(If delivered twice a day, allow		
MILK ROOM OR MILK HOUSE.			perfect score for storage and		
Location: Free from contaminat-			transportation.)		
ing surroundings.....	1		Total.....		
Construction of milk room.....	2			60	
Floor, walls and ceiling..... 1					
Light, ventilation, screens..... 1					
Separate rooms for washing					
utensils and handling milk.....	1				
Facilities for steam.....	1				
(Hot water, 0.5.)					
Total.....	40				

Equipment+Methods=Final Score.

NOTE 1.—If any exceptionally filthy condition is found, particularly dirty utensils, the total score may be further limited.

NOTE 2.—If the water is exposed to dangerous contamination, or there is evidence of the presence of a dangerous disease in animals or attendants, the score shall be 0.

Purpose of act.

SEC. 15. The purpose of this act is to amend and supersede an act entitled "An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor," which is hereby repealed.

An act to regulate the production of certified milk, cream, ice cream, butter and cheese; and repealing an act entitled "An act to regulate the production of certified milk," approved March 18, 1909, and all acts and parts of acts inconsistent with this act.

[Approved April 25, 1913. Statutes 1913, p. 83.]

Unlawful to sell "certified milk" that does not conform to standards.

SECTION 1. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for certified milk, any milk which does not conform to the rules and regulations and to the methods and standards for the production and distribution of "certified milk" adopted by the American association of medical milk-commissions on May 1, 1912, and which does not bear the certification of a milk commission appointed by a county medical society organized under and chartered by the medical society of the State of California, and which has not been pronounced by such authority to be free from antiseptics, added preservatives, and pathogenic bacteria, or bacteria in excessive numbers. All milk sold as certified milk shall be conspicuously marked with the name of the commission certifying it. Such milk commission shall make all requirements for the production and handling of certified milk uniform and fair, and shall not refuse to certify milk for any applicant for certification who shall comply with the provisions of this act.

Sale of any certified dairy product.

SEC. 2. No person, firm or corporation shall sell or exchange or offer or expose for sale or exchange, any cream, skimmed milk, buttermilk, ice cream, butter or cheese as and for certified cream, certified skimmed milk, certified buttermilk, certified ice cream, certified butter or certified cheese, as the case may be, or use the word "certified" in connection with the sale, designation, advertising, labeling or billing of any cream, skimmed milk, buttermilk, ice cream, butter or cheese unless the same and all products of milk contained therein or used in the manufacture thereof are obtained

exclusively from milk which conforms to the requirements of this act for certified milk and which bears the certification of a milk commission in accordance with the provisions of section one of this act, and unless in addition thereto the methods and conditions under which such cream, skimmed milk, buttermilk, ice cream, butter and cheese, as the case may be, have been prepared or manufactured, as regards cleanliness and sanitation, shall conform to the requirements of the milk commission whose certification is sought. All cream, skimmed milk, buttermilk, ice cream, butter and cheese sold, designated, advertised or offered for sale, as certified cream, certified skimmed milk, certified buttermilk, certified ice cream, certified butter or certified cheese shall be conspicuously marked with the name of the commission certifying it and certifying the milk from which such cream, ice cream, butter and cheese is obtained.

Penalty.

SEC. 3. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars, or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days.

Repeal.

SEC. 4. An act entitled "An act to regulate the production of certified milk," approved March 18, 1909, and all acts and parts of acts inconsistent with this act, are hereby repealed.

[The act approved April 25, 1913, probably supersedes the act approved March 17, 1911 (*Statutes* 1911, p. 382), relating to certified butter.]

**DAIRY LAWS WHICH, THOUGH NOT EXPRESSLY REPEALED,
HAVE BEEN INCORPORATED IN OR SUPERSEDED BY
CERTAIN PROVISIONS OF THE ACT
APPROVED APRIL 21, 1911.**

(Statutes of 1911, p. 959.)

Penal Code, Sec. 381*a*, relating to the making of false tests. (Sections 25 and 40 of the 1911 statute.)

Penal Code, Sec. 381*b*, relating to the duty of the State Dairy Board to enforce the law. (Sections 26, 43 and 44 of the 1911 statute.)

Penal Code, Sec. 383*a*, relating to process or renovated butter. (Sections 20 to 24 and 39 of the 1911 statute.)

Statutes:

1897, p. 65 (except section 15 thereof, which is still in force), relating to the manufacture and sale of butter and cheese. (Sections 9 to 19, 39, 43 and 44 of the 1911 statute.)

1897, p. 69, relating to the branding of cheese. (Section 35 of the 1911 statute.)

1905, p. 462, relating to the sale of dairy products, the inspection of dairies, etc. (Sections 1 to 5, 8, 33, 43 and 44 of the 1911 statute.)

1905, p. 468, relating to the sale of renovated butter. (Sections 20 to 24, 39, 42 and 44 of the 1911 statute.)

1907, p. 265; amended 1909, p. 1088, relating to the adulteration of dairy products. (Sections 28, 29, 37, 40 and 44 of the 1911 statute.)

1907, p. 971, relating to the use of chemicals in milk to prevent fermentation. (Sections 33, 37, 40 and 44 of the 1911 statute.)

DECISIONS CONSTRUING VARIOUS STATUTES.

California Decisions.

Jurisdiction of Justice's Court. The Justice's Court has jurisdiction to try a case involving a violation of the provisions of the Dairy Act approved April 21, 1911 (Statutes 1911, p. 959). *Revis v. Superior Court*, 22 Cal. App. 479.

Municipal Ordinance. A municipal ordinance requiring in milk vended a certain percentage of solids, not in itself unreasonable but which is greater than the percentage of solids required by the Dairy Act approved March 15, 1907 (Statutes 1907, p. 265), is not in conflict with the statute and is valid. *In re Hoffman*, 155 Cal. 114. This case overrules *In re Desanta*, 8 Cal. App. 295.

Police Power. The act of March 20, 1905 (Statutes 1905, p. 316), requiring the marking of packages of butter which contain less than 6 lbs. and more than $\frac{1}{2}$ lb. so as to advise the purchaser or others as to the exact weight of butter contained in such packages, is not a statute for the purpose of preventing the sale of impure food, or the adulteration of food, or the sale of one kind of food under the name of another. It is not a valid exercise of the police power, and is unconstitutional and void. *Ex parte Dietrich*, 149 Cal. 104.

Registration of Dairy. A contract for the sale of milk which conforms to all of the requirements of the Dairy Act approved April 21, 1911 (Statutes 1911, p. 959), as to the percentage of butter fat, purity, etc., is valid, although the dairyman has failed to register as required by sections 6 and 16 of that statute. *Luchini v. Roux*, 29 Cal. App. 755.

Decisions of Other Courts.

The doing of the act condemned by the law constitutes the offense, if it is silent as to the knowledge or intent of the person who is charged with violating it. *People v. Kibler*, 106 N. Y. 321, 12 N. E. Rep. 795.

Under an indictment for selling adulterated milk it is not necessary to show criminal intent. Guilty knowledge is not an essential element of the offense. *People v. Shaeffer*, 41 Hun (N. Y.), 23; *People v. Cipperly*, 101 N. Y. 634; *People v. Kibler*, 106 N. Y. 321; *People v. Eddy*, 12 N. Y. Supp. 628.

In *People v. Kibler*, 106 N. Y. 321, the defendant was charged with selling adulterated milk. The defendant was not permitted by the trial court to show an absence of criminal intent, but was condemned under a charge which made his

intent wholly immaterial, and his guilt consisted in having sold an adulterated article whether he knew it or not. Finch, J., in delivering the opinion of the court, said: "As the law stands, knowledge or intent forms no element of the offense."

A hotel-keeper who sells milk to be drunk by his guests on his premises is liable if the milk so sold is not of the quality prescribed by the statute. *Commonwealth v. Vieth*, 155 Mass. 442. A statute reading "whoever by himself, or by his servant or agent," etc. includes a hotel-keeper's servant who sells to a guest, though the master be not present and does not consent to, or know of the particular sale. *Commonwealth v. Vieth*, 155 Mass. 442.

Construing the statute fixing the standard the Supreme Court of New Hampshire, in *State v. Campbell*, 64 N. H. 402, said: "The statute tends to discourage the breeding of a certain class of cattle for the supply of the milk market. The difficulty of guarding against the adulteration of milk may have influenced the legislature in fixing a standard of richness. Practically, it makes no difference whether milk is diluted after it is drawn from the cow, or whether it is made watery by giving her such food as will produce milk of an inferior quality, or whether the dilution regarded by the legislature as excessive, arises from the nature of a particular breed of cattle. The sale of such milk to unsuspecting consumers, for a price in excess of its value, is a fraud which the statute was designed to suppress."

Delivery of milk to a purchaser of a meal as a part thereof is a sale of the milk within the meaning of the statute. *Commonwealth v. Warren*, 160 Mass. 533.

Statutes forbidding the sale, as "ice cream," of any article not containing a reasonable percentage of butterfat, such as 8 per cent or 12 per cent, fall fairly within the state police power. The fact that the name "ice cream," as commonly used, includes many compounds which are entirely wholesome yet contain no cream or butterfat, does not render such legislation arbitrary or unreasonable, but tends rather to support it as serving to prevent the public from being misled in the purchase of a food article of general consumption. *Hutchinson Ice Cream Co. v. Iowa*, 242 U. S. 153.

Oleomargarine. Validity of color law.

It is a proper regulation for preventing fraud and deception and is within the police power of the state under the Missouri Sessions Acts 1895, page 26, section 2, to prohibit the manufacture or sale within the state of any substance in "imitation or semblance of natural butter," or with which any substance has been combined, "for the purpose or with the effect of

imparting thereto a yellow color, or any shade of yellow, so that such substance shall resemble yellow or any shade of genuine butter." The enforcement of such laws against oleomargarine shipped from other states and sold in original packages is not a violation of the interstate commerce clause of the Constitution of the United States. *In re Schietlin*, 99 Fed. 272.

In *State v. Armour Packing Company*, 124 Iowa, 323, defendant was convicted of selling oleomargarine having a yellow color. On appeal the conviction was sustained. The buyer knew what he was purchasing, and the tub was sealed, labeled and marked in every particular as required by statute with reference to the sale of substitute for butter, but the product itself bore a yellow color in imitation of butter.

The court said: "It was entirely possible to introduce into the product innocuous coloring matter, which would give it the hue of butter, and then to claim, just as here attempted to be proved, that this coloring matter or substance was a necessary ingredient of the compound, and essential to the product known to commerce as oleomargarine. Under such a state of facts it might well be claimed that nothing was introduced into the substance for the purpose of giving it the color of butter. Were such a contention to receive judicial approval, it is manifest that many difficulties would arise in the enforcement of the law."

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